THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.9631 OF 2006

BETWEEN:

H.V.S.Sanduilya and three others.

…Petitioners

vs.

The Revenue Divisional Officer(LAO), Jangareddigudem village and Mandal, W.G.District.

…Respondent

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 9631 OF 2006

ORAL ORDER

The writ petition is filed for a declaration that the action of the respondent in not referring to the Civil Court a dispute as to the valuation of the petitioners' lands

acquired under the provisions of the Land Acquisition Act,1894(for short "the Act"), under Sec.18 of the Act, despite a request made on that behalf on 09-07-2005, in respect of the award dated.09-05-2005, is illegal, arbitrary and for a consequential and appropriate direction to the respondents.

According to the writ petition, land of an extent of Ac.162 situated at LND Peta, Polavaram Mandal, West Godavari District was acquired by the State for the purpose of provision of lands to scheduled tribe beneficiaries under the R&R package to displaced tribles under the Kovvada Reservoir project. For facilitating the acquisition the petitioners consented and the consent letter reads as under:-

"*We are holding lands in LND Peta village in Polavaram Mandal. We were approached by the Konda Reddies of Reddigudem under Buttayya gudem Mandal for agriculture lands for their day to day agricultural lively hood. We both are holding the following agriculture lands and the details given below.*

.No	Names	Father or Husband name	RS No.	Extent AC	Village	Mandal
	B.V.V.Satyanarayana	Surya Pakasam	432	32-50	LND Peta	Polavaram, W.G.Dist
	Smt.A.Kameswari	Ramachandran	426	49-50	LND peta	Polavaram, W.G.Dist.

Total 82-00

We do hereby give our free consent to the Revenue Divisional Officer to sell our lands for the rates fixed by revenue people as per market value. The lands are having fruit bearing Mango and Cashunut gardens with properly fenced with barbed wires fixed in concrete poles, gates sheds and wells 2 nos. This is for your information.

Thanking you."

The respondents passed an award dated.09-05-2005 fixing the market value at Rs.50,000/- per acre. Advance possession of the petitioners' land was taken earlier on 20-02-2000. The petitioners filed their objections in Form-IV on 30-04-2005 during the course of award enquiry and also sought a reference under Sec.18 of the Act seeking enhancement of compensation to Rs.90,000/- per acre. The request seeking reference to the Civil Court under Sec.18 of the Act was sent by registered post on 09-07-2005. As no action was taken on their request for a reference to the Civil Court, the petitioners are before this Court seeking appropriate relief.

The respondents filed a counter-affidavit denying the right of the petitioners' to

seek a reference under Sec.18 of the Act. The answering respondent states that as a petitioners had given consent for acquisition and as a consent award under Sec.11(2) of the Act was passed on 09-05-2005, the petitioners cannot seek a reference under Sec.18 of the Act. All other allegations in the writ petition are admitted. In respect of the valuation adopted by the respondents, it is stated that at the time of negotiation, the petitioners had accepted for fixation of market value of Rs.50,000/- per acre and also issued a consent letter accordingly. It is further asserted that the District Collector, West Godavari had approved the valuation at Rs.50,000/- inclusive of all statutory benefits and accordingly the Land Acquisition Officer had fixed the market value at Rs.50,000/- and had passed a consent award on 09-05-2005 under Sec.11(2) of the Act and the petitioners have received the compensation. Since it is a consent award, no reference is available, is the refrain in the counter-affidavit. Though the application of the petitioners sent by registered post seeking reference is admitted, the answering respondent states that as the value is fixed on the basis of consent and a consent award passed, a reference under Sec.18 is impermissible, and that the petitioners having consented for acquisition and having accepted the rates fixed by the negotiation committee, are disentitled to seek any reference under Sec.18 of the Act.

On a true and fair construction of the consent letter dated.11-06-2004 issued by the petitioners which formed the basis and the justification for acquisition of their lands by the respondents, it is clear that unrestricted consent is given only for acquisition (sell our lands). The petitioners have however stipulated in the letter that they consent to the “sale” of their lands at the rate fixed by revenue as per the market value. The letter also states that lands are having fruit bearing Mango and Cashew nut gardens, properly fenced with barbed wires fixed in concrete poles, gates sheds and two wells.

As the petitioners are aggrieved by the quantum of the compensation fixed by the Land Acquisition Officer in the award and as they are not seen to have consented, either explicitly or by any compelling implication and having regard to the language employed in the letter of consent dated.11-06-2004, to any particular value and as the value arrived at by the negotiation committee does not appear to have been put to the petitioner and an agreement reached and a consent thereto recorded on the value, the

quantum of value/market value fixed by the Land Acquisition Officer in the award dated.09-05-2005 is susceptible, to be considered by the civil Court of competent jurisdiction in a reference made under Sec.18 of the Act. The respondents cannot avoid this legal trajectory on the jejune plea that there was a comprehensive agreement not only for the acquisition but also the value arrived at unilaterally without transparence and without consultation with the petitioners.

On the aforesaid analysis the respondents are directed to forthwith and at any rate within seven (7) days from the date of receipt of a copy of this Order refer the objections of the petitioners to the Civil Court under Sec.18 of the Act, on the basis of their application dated.09-07-2005, which is filed within time.

The writ petition is allowed as above. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

18TH JULY 2006

Note:
Issue CC as soon as
Possible